

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Nikola Corporation,

Plaintiff,

vs.

Case No.: 2:24-cv-00690-DWL

EMBR Motors, Inc.; Trevor R. Milton;  
M&M Residual, LLC; Cole Cannon; and  
David “Dave” Sparks,

**ORDER**

Defendants.

This matter came before the Court upon the Motion for Preliminary Injunction (the “Motion”) filed by Plaintiff Nikola Corporation (“Nikola”) seeking preliminary injunctive relief enjoining Defendants EMBR Motors, Inc. (“EMBR”), Trevor R. Milton (“Milton”), M&M Residual, LLC, Cole Cannon (“Cannon”), and David “Dave” Sparks (“Sparks”) (collectively, the “Defendants”). The Court finds that Nikola has met its burden of demonstrating all of the factors set forth in *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) for preliminary injunctive relief. Therefore, upon consideration of the Motion and any response thereto, IT IS HEREBY ORDERED that:

1. Nikola’s Motion is GRANTED;

- 1       2. This Order is binding upon the Defendants and all others bound pursuant to  
2       Federal Rule of Civil Procedure 65(d)(2);
- 3       3. This Order shall be binding until further order of the Court;
- 4       4. Defendants shall, within one (1) calendar day from the date this Order is entered,  
5       remove all existing public-facing references to Nikola on the EMBR website and  
6       any social media accounts controlled by the Defendants (including but not limited  
7       to YouTube, Facebook, Instagram, TikTok, LinkedIn, and X);
- 8       5. Defendants are prohibited from using Nikola's trade dress, trademarks, or any  
9       false or misleading description of fact or representation of fact, or otherwise  
10      making any statement in commercial advertising or promotion which  
11      misrepresents the nature, characteristics, or qualities of Defendants' goods or  
12      services or Nikola's involvement with those goods or services;
- 13     6. EMBR is prohibited from mentioning, whether express or implied, Milton, M&M  
14     Residual, LLC and its officers, directors, affiliates and agents in any public-facing  
15     communications;
- 16     7. Defendants are prohibited from representing, in any manner or method, that any  
17     goods, services or business sold by Defendants are sponsored, approved, or  
18     authorized by or originating from Nikola, or from taking any action likely to  
19     cause confusion, mistake, or deception as to the nature, characteristics, approval,  
20     sponsorship or certification of those goods or services;
- 21     8. Defendants are prohibited from all continued and future use, copying,  
22     distribution, publication, development, or deployment of Nikola's trade name(s)  
23     and trademarks;
- 24     9. Sparks and Cannon may not be nominated as directors to Nikola's Board of  
25     Directors;
- 26     10. Sparks, Cannon and EMBER may not participate in any Nikola stockholder  
27     proxy solicitation involving Milton or M&M Residual, LLC;
- 28     11. Defendants shall not reference to EMBR, Sparks or Cannon in any subsequent  
      statements relating to the February 20, 2024 Soliciting Materials or any  
      subsequent proxy solicitation;
12. Defendants shall not engage in conduct that violates the Exchange Act, the rules  
      and regulations promulgated thereunder or Section 3.2 of the Nikola Bylaws;
13. Nikola shall be required to post a bond in the amount of \$\_\_\_\_\_; and

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14. No person who has notice of this injunction shall fail to comply with it, nor shall any person subvert the injunction by sham, indirection or other artifice.